

REMARKS

In the final Office Action, claims 1, 19, 20 and 32-40 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,831,797 to Schaenzer et al. ("Schaenzer") in view of U.S. Patent No. 5,808,973 to Tanaka ("Tanaka"). The Examiner stated that Schaenzer discloses all features of the claimed invention with the exception of a probe comprising a microscopic aperture formed in the bottom surface of a slider for producing a near-field light or converting a near-field light produced on a surface of a recording medium into a propagation light without a lens being disposed proximate the microscopic aperture. Tanaka was cited as disclosing this feature. In view of this disclosure, the Examiner has taken the position that it would have been obvious to replace the solid immersion lens of Schaenzer with the microscopic aperture of Tanaka since these components are art recognized equivalents.

Applicants and applicants' undersigned counsel acknowledge with appreciation the indication of allowable subject matter with respect to claims 41-44. To obtain allowance of these claims, applicants have revised independent claims 1 and 19 to incorporate the subject matter of allowable dependent claims 41 and 43, respectively. Accordingly, claims 41 and 43 have been canceled without prejudice or admission and the dependency of claims 42 and 44 has been changed to

conform to the foregoing amendments. Claims 1 and 19 have been further amended in clarifying respects to better recite the location of the microscopic aperture in a protruding portion of the bottom surface of the slider or support member that is closer to the sample than a non-protruding portion. The specification has been amended to provide a literal antecedent basis for the probe.

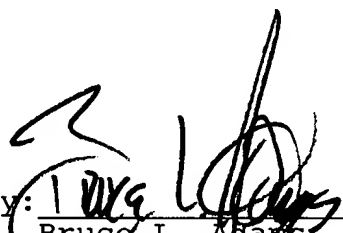
Applicants most respectfully requests entry of the foregoing amendments since they merely comprise the incorporation of subject matter of dependent claims that were already considered by the Examiner into the base claims. Thus, no further consideration or search is necessitated by the amendments. In addition, the amendments substantially narrow any appealable issues by further limiting the independent claims. The subject matter of the dependent claims has already been considered by the Examiner on at least two previous occasions. Thus, entry of the foregoing amendments does not impose a burden on the Examiner and should not be denied.

Accordingly, applicants respectfully submit that claims 1, 19, 20, 32-40, 42 and 44 patentably distinguish over the prior art of record and that the rejections under 35 U.S.C. §103(a) should be withdrawn.

In view of the foregoing amendments and discussion,
the application is now believed to be in condition for
allowance. Accordingly, favorable reconsideration and
allowance of the claims are most respectfully requested.

Respectfully submitted,

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MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: MS AF, COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

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May 10, 2004

Date